A Regulator's Perspective.

Compliance……and Beyond!

(Apologies to Buzz Lightyear)

What do the regulators "expect"?

- As a baseline, the same thing as your base commanders expect.....

- *COMPLIANCE!*

What is compliance?

- Compliance with……
  - ⇨Regulations.
  - Permit conditions.
  - Operating requirements.
  - Administrative orders.

How are we doing?

- In general, compliance rates in Region 4 and nationally are pretty good.
- E.g., we have a 95+% compliance rate with NPDES permit requirements and public water supply MCLs in Region 4.
- Generally, compliance rates at DoD facilities are above that of the regulated community as a whole.

So, is Our Job Done?

- Let’s look at another type of compliance, compliance with:
  - Ambient standards for water quality.
  - National air quality standards.
  - Other health-based criteria.
  - National goals for reductions in releases of toxic chemicals and waste.

The picture is less rosy.

- 40% of the nation's streams and lakes do not meet WQ standards (29% in AL).
- 119 metro areas are in non-attainment status for air quality as of 12/99.
- Generation of solid and hazardous waste continues to increase.
- Reported releases of toxic chemicals into the environment have increased the last 2 years, after several years of decreases.

The point is……

- There’s a gap between our authority to regulate sources of pollution and the emergent environmental issues of the coming years, such as…
  - Non-point sources.
  - Mobile sources.
  - Energy use and impacts of energy generation.

BIG Question……

- How do we bridge this gap between regulatory compliance, which looks pretty good, and environmental quality, which is not where we all would like it to be?

Beyond Compliance

- Continuous improvement in environmental quality through:
  - Pollution prevention (P2).
  - Energy conservation.
  - Control of NPS pollution.
  - Recycling and re-use.
  - Stewardship of natural resources.

But I’m Just a Lawyer.

- Isn’t compliance my primary mandate?
- Do I have authority to do more?
- How can I help my military facility or community move beyond “mere” compliance?

Executive Orders

- EO’s often provide support for going beyond compliance.
  - Pollution prevention.
  - Affirmative procurement.
  - Energy conservation.
  - Wetlands protection.
  - Floodplain protection.

Example Executive Orders

- EO11988, Floodplain Mgmt.
- EO11990, Wetlands Protection
- EO12843, Ozone Depleting substances.
- EO12856, P2 Plans for FedFacs.
- EO12902, Energy/water conservation.
- EO13101, Affirmative procurement.
- EO13123, Efficient energy mgmt.

Environmental Stewardship

- DoD facilities serve a trusteee role for many valuable natural resources.
  - E.g., wetlands on many military facilities provide valuable water quality benefits as well as habitat for important species.

SEPs

- Supplemental Environmental Projects (SEPs) are used to lessen a portion of monetary fines levied in cases of violations. The advantage is that the money spent is spent on environmental improvements.

Example of a SEP.

- The City of Atlanta spent $30 million to establish riparian buffer zones along the Chattahoochee River instead of paying that money as a fine for NPDES violations.
- Connection (nexus) between the violation and the SEP.

Philosophically speaking…

- From a regulator's perspective:
  - View compliance as the baseline, not the goal.
  - Look for opportunities for environmental improvement that go beyond "mere" compliance.
  - Be an advocate for environmental quality at your duty station.

What’s Coming Down the Pike?

- Office of Air and Radiation (OAR)
- Office of Water (OW)
- Office of Prevention, Pesticides and Toxic Substance (OPPTS)
- Office of Solid Waste and Emergency Response (OSWER)

OAR

- “Diesel” rule.
- Last Round of MACT standards.
- Court decision on new NAAQS standards.
- Radiation standards for Yucca Mountain?
- Reauthorization of CAA?

OW

- TMDLs.
  - Reclassification of stream segments?
- NPDES backlogs.
- GW rule for biological contaminants.
- CAFO rules.
- SSO rules.

OPPTS

- PBTs
  - Integrated national “action plans” for addressing releases of PBTs.
- Mercury.
  - First plan to be developed.
  - May lead to tighter regs on incinerators, boilers, coal-fired power plants.

OSWER

- Congressional push to eliminate NR liability in SF.
- Small business liability protection?
- Sovereign immunity...states would like to eliminate for SF at Fed Facs.
- New regs for boilers and industrial furnaces.
- Clarification of CAMU regs.

In closing….

- Partnerships.
  - IRP
  - P2
- Encouraging installation participation in interagency activities.
  - SENRL Group.
- Installations as “proving grounds” for innovation.